

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**RICHARD D. EAVES, JR.; SAUNDRA )  
F. EAVES; JARED EAVES; and )  
JEWELIE EAVES, )**

**Plaintiffs, )**

**vs. )**

**BROWN SCHOOLS OF OKLAHOMA, )  
INC., )**

**Defendant. )**

**Case No. \_\_\_\_\_**

**State Court Case No. CJ-2004-1098  
Comanche County District Court**

**NOTICE OF REMOVAL**

COMES NOW the Defendant, Brown Schools of Oklahoma, Inc. ("Brown Schools"), by and through its attorneys of record, Holden Capron & Carr, and pursuant to 28 U.S.C. § 1446, hereby gives notice that this matter is removed to the United States District Court for the Western District of Oklahoma, and in support of its Notice of Removal, Brown Schools here alleges and states as follows:

1. Plaintiffs seek damages against Brown Schools, a Delaware corporation, for allegations of negligence arising from the placement of a therapeutic foster child named T. A., who was placed in Plaintiffs' home at Fort Sill, Comanche County, Oklahoma. Plaintiffs' alleged damages arise from pain, suffering, mental anguish, embarrassment and humiliation. The federal court's jurisdiction is appropriate pursuant to 28 U.S.C. §§ 1332 and 1441, based upon diversity of jurisdiction between Brown Schools and Plaintiffs and an amount in controversy in excess of Seventy-Five Thousand Dollars (\$75,000.00).

2. A related matter, *Avery v. Dept. of Human Services, et al.*, Case No. CIV-01-430-F, was heard by the Honorable Stephen P. Friot, beginning in 2001. That matter culminated in a settlement between all parties on or about February 3, 2004. Because of his familiarity with this underlying matter, Defendant contends it is in the best interest of justice and use of the Court's resources to assign Judge Friot to this matter.

3. The amount in controversy is pled by Plaintiffs to be merely "in excess of \$10,000.00;" however, in actuality, the amount in controversy is much greater due to the prayer for punitive damages, as well as information obtained from Plaintiffs' counsel on Friday, January 28, 2005. Plaintiffs' counsel, David Butler, informed undersigned counsel that it is his belief that Plaintiffs' damages are easily in excess of Seventy-Five Thousand Dollars. Moreover, Mr. Butler indicated he will not object to Defendant's removal to federal court.

4. This case first became removable upon the receipt on January 12, 2005 of Plaintiffs' Amended Petition, filed in Comanche County on January 11, 2005. (See Exhibit 1, attached) Plaintiffs have not served a Summons and Petition on Brown Schools and, therefore, service of process under state law has not been effected. Brown Schools has, however, voluntarily entered an appearance. As such, this Notice of Removal is timely.

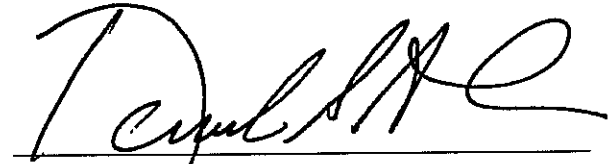
5. Attached hereto as Exhibit 1 are all the state court pleadings in the possession of Defendant in this matter, consisting of the Petition and Summons to Psychiatric Solutions of Oklahoma, Inc. ("PSO"), as well as the Amended Petition. PSO has been voluntarily dismissed by Plaintiffs.

6. Attached hereto as Exhibit 2 is a copy of the Comanche County docket sheet.

7. Undersigned counsel represents that all attorneys appearing hereon for Brown Schools are admitted to practice before this Court.

Respectfully submitted,

HOLDEN CAPRON & CARR

A handwritten signature in black ink, appearing to read 'Derek S. A. Lawrence', written over a horizontal line.

Derek S. A. Lawrence, OBA #19510  
Steven E. Holden, OBA #4289  
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*Attorneys for Defendant*

CERTIFICATE OF SERVICE

I hereby certify that on the 31<sup>st</sup> day of January, 2005, a true and correct copy of the above and foregoing instrument was served on the parties as follows:

☐ Via U.S. Mail

☒ Via Facsimile Mail

☐ Via Federal Express


☐ Via Hand Delivery

to:

David Butler  
BUTLER & BUTLER  
810 SW "C" Avenue  
Lawton, OK 73501

John P. Zelbst  
P.O. Box 365  
Lawton, OK 73502

*Attorneys for Plaintiffs*

  
Derek S. A. Lawrence